

Willis, Lee

From: Brise Tencer [brise@ofrf.org]
Sent: Monday, February 02, 2004 4:52 PM
To: DocketClerk, MOAB
Subject: OMB No. 0581-NEW. [Docket Number FV03-900-1 PR] Proposed Rule to Exempt Organic Producers and Marketers From Assessments for ...



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February 2, 2004

**Docket Clerk
Marketing Order Administration Branch
Fruit and Vegetable Programs, AMS
U.S. Department of Agriculture
1400 Independence Avenue, SW
STOP 0237
Washington D.C. 20250-0237**

RE: 7 CFR Part 900 [Docket Number FV03-900-1 PR] Proposed Rule to Exempt Organic Producers and Marketers From Assessments for Market Promotion Activities Under Marketing Order Programs, Federal Register: December 2, 2003 (Volume 8, Number 231), page 67381-67385

Dear Docket Clerk;

These comments on the Proposed Rule to Exempt Organic Producers and Marketers From Assessments for Market Promotion Activities Under Marketing Order Programs are submitted by the Organic Farming Research Foundation (OFRF).

First, OFRF thanks USDA Agricultural Marketing Service for the opportunity to comment. We strongly support exempting organic producers and marketers from paying assessments for the promotion component of federal marketing orders that include promotion activities. We think the proposed rule generally reflects the intent of the legislation, although we see several areas where additional clarifications are required.

In general, our comments are as follows:

*** Clear language should be added to the rule that creates a presumption of exemption for the person providing the necessary paperwork to the marketing order committee or board. As currently drafted, the proposed rule leaves to much discretion to the marketing order committee or board as to whether to grant or deny the application for exemption, making only a vague reference that "[t]he Secretary may review any decisions made by the committee or boards at his/her discretion." The final rule should clarify that a person meeting the requirements of the application is presumed to be**

exempt, and should further clarify the circumstances under which an applicant can be denied such exemption.

* A very clear appeals process must be specified within this rule, detailing the steps that an applicant can take to appeal a denial of their application by the marketing order committee or board, and the rights of the applicant in that process. The appeals process should be made clear in the text of this rule, even though a generic process for appeals under federal marketing orders may be described in other regulations.

* In an example given in the rule, a handler who does not alter the commodity is not exempt from an assessment under a marketing order. We believe that a handler should be exempted regardless of whether they alter the product.

* Because handlers often handle product from both organic and conventional sources, the handler should not be required to be 100% organic.

* The term "produces 100% organic" needs to be clarified to explain that this refers only to the commodity falling under the marketing order. We support the Organic Trade Associations recommendation that the words "any conventional or non-organic products" should be changed to "any conventional or non-organic products under the marketing order".

We look forward to the forthcoming proposed rule dealing with exemptions from assessments paid for promotion programs that are not connected with marketing orders. We believe that the exemption from both types of promotion programs are in keeping with the intent of Section 10607 of the Farm Security and Rural Investment Act of 2002.

Thank you for your consideration of our comments.

Sincerely,

Brise Tencer

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